

REMARKS

Claims 1-22 are now pending in the application. Claims 23-25 have been withdrawn from consideration. Claims 26-28 have been added by this amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

The Applicants request that the Examiner review and consider the Affidavit under 37 C.F.R. 1.132 submitted herewith.

Initially, the Applicant would like to thank the Examiner for the courtesies extended during the telephone interviews regarding the presently pending claims and the discussions of the art cited by the Examiner.

New independent claim 26 has been added which recites "a metal alloy, consisting essentially of" various elements for forming the alloy. Miller et al. discloses alloys including several elements not recited in new independent claim 26 or the claims dependent therefrom. Moreover, the elements disclosed by Miller et al. in his alloys would not include the burn resistance of the alloy recited in independent claim 26. With reference to the affidavit of Monica Jacinto, the alloy of Miller et al., including the various gamma prime formers in such high amounts, would not provide the burn resistance of the alloy recited in independent claim 26. Therefore, independent claim 26 should be allowable in light of the art cited by the Examiner.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller et al. (U.S. Pat. No. 5,120,373). This rejection is respectfully traversed.

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In the affidavit, submitted herewith, Monica Jacinto describes the differences between the alloy of Miller et al. and the alloys presently claimed. With reference to the affidavit, in a metal alloy including more than about 10% of gamma prime formers, such as aluminum and titanium, the burn resistant properties of the alloy would be greatly reduced. As included in each of the independent claims, the gamma prime formers, such as titanium and aluminum, are always below at least 10%. Moreover, the metal alloys, including nickel as a majority component, include a selected burn resistance. Therefore, Miller et al. does not render obvious the alloy as presently recited in each of the independent claims.

Moreover, gamma prime formers, as constituents of a nickel alloy, increase gamma prime formation. This decreases the gamma prime solvus thereby decreasing the burn resistance of the nickel metal alloy. As disclosed in Miller et al., the alloy disclosed therein can be viewed as a derivative of Waspaloy®. The main difference between the alloy of Miller et al. and the alloy Waspaloy® is that the alloy of Miller et al. includes about 1.3 times more times gamma prime formers than Waspaloy®. See column 2, lines 39-45. As discussed in the presently submitted affidavit, increased gamma prime formers decreases the burn resistance of the nickel metal alloy. Furthermore, as disclosed in the present description, Waspaloy® does not include the burn resistance of the presently claimed metal alloys. Therefore, Miller et al. does not disclose an alloy which includes the burn resistance of the presently claimed metal alloys. Rather, as discussed in the affidavit, the increased gamma prime formers as disclosed in Miller et al., would actually decrease the burn resistance of the metal alloy in Miller et al. relative to the presently claimed alloy.

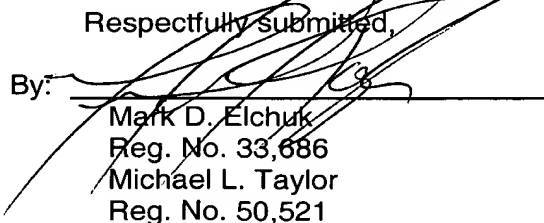
Because of the alloys disclosed in Miller et al. and the teachings therein to increase gamma prime formers, Miller et al. actually teaches away from the presently claimed invention. Rather than teaching a metal alloy which can provide increased burn resistance with substantial tensile strength, Miller et al. actually teaches a metal alloy that would include a decreased burn resistance. Miller et al. teaches that the main difference between his alloy and the previously known Waspaloy® alloy is the increased gamma prime formers that decrease burn resistance, as discussed above.

Miller et al. does not teach nor fairly suggest the alloys as presently claimed. Therefore, the metal alloy as presently claimed is not obvious and includes properties which are not present in the Miller et al. alloy. Accordingly, the Applicant believes that each of the claims 1-22 and 26-29 are allowable.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Dated: 4/30/03
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